

<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON Eugene Division</p> <p>RONDA MCGOWAN, Personal) Representative for Estate of) Brian Babb, LEE BABB, CONNOR) BABB, by and through Guardian) ad litem, STEPHANIE WOODCOOK,) KAYLEE BABB,) Plaintiffs,) v.) No. 6:17-cv-00424-TC WILL STUTESMAN, OFFICER GROSE,) OFFICER PIESKE, Sgt. MCALPINE,) CITY OF EUGENE, a municipal) subdivision of the State of) Oregon, JANE DOE CALL TAKER,) John and Jane Does 1-10,) Defendants.)</p> <p style="text-align: center;">DEPOSITION OF DEREK DeWITT</p> <p style="text-align: center;">October 3, 2017</p> <p style="text-align: center;">Tuesday</p> <p style="text-align: center;">4:31 P.M.</p> <p>THE DEPOSITION OF DEREK DeWITT was taken at Harrang Long Gary Rudnick, 360 East 10th Avenue, Suite 300, Eugene, Oregon, before Christine Oljace, CSR, RPR, CRC, Certified Shorthand Reporter in and for the State of Oregon.</p> <p style="text-align: center;">2</p>	<p style="text-align: center;">3</p> <p>1</p> <p>2 INDEX</p> <p>3</p> <p>4 WITNESS.....PAGE</p> <p>5 DEREK DeWITT</p> <p>6 BY MS. BURROWS 4</p> <p>7</p> <p>8</p> <p>9 EXHIBITS.....MARKED</p> <p>10 Exhibit 6 Continuation Report; Bates 9</p> <p>11 Nos. COE 000695 - COE 000696</p> <p>12 Exhibit 7 Photograph; Bates No. COE 001044 13</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1</p> <p>2 APPEARANCES</p> <p>3 For the Plaintiffs:</p> <p>4 MS. MICHELLE R. BURROWS 420 SW Washington, Suite 300 5 Portland, Oregon 97204 503/241-1955 6 michelle.r.burrows@gmail.com</p> <p>7 For the Defendants:</p> <p>8 HARRANG LONG GARY RUDNICK, PC 360 East 10th Avenue, Suite 300 9 Eugene, Oregon 97401 541/485-0220 10 BY: MR. JEFFERY MATTHEWS jeff.matthews@harrang.com</p> <p>11</p> <p>12 Also Present:</p> <p>13 MS. JAMIE IBOA</p> <p>14 WILL STUTESMAN</p> <p>15 MATTHEW GROSE</p> <p>16</p> <p>17 Reported by:</p> <p>18 CHRISTINE OLJACE, CSR-RPR</p> <p>19 CC REPORTING & VIDEOCONFERENCING</p> <p>20 EUGENE 541/485-0111</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">4</p> <p>1 DEREK DeWITT,</p> <p>2 having been first duly sworn to testify the truth,</p> <p>3 the whole truth, and nothing but the truth, was</p> <p>4 examined and testified as follows:</p> <p>5</p> <p>6 EXAMINATION</p> <p>7 BY MS. BURROWS:</p> <p>8 Q. Could you state your name for the record,</p> <p>9 please.</p> <p>10 A. Yes. It is Derek DeWitt.</p> <p>11 Q. Officer DeWitt, my name is Michelle</p> <p>12 Burrows. I am an attorney, and I represent the</p> <p>13 Estate of Brian Babb, a gentleman who was shot and</p> <p>14 killed by the Eugene Police Department in March of</p> <p>15 2015. You are here to testify about your role in</p> <p>16 the incident itself.</p> <p>17 Have you reviewed any documents in</p> <p>18 preparation for today's deposition?</p> <p>19 A. I reviewed my statement that I gave after</p> <p>20 the incident and then the photos from the incident.</p> <p>21 Q. Okay. Okay. Have you ever had your</p> <p>22 deposition taken before?</p> <p>23 A. I have not.</p> <p>24 Q. Never?</p> <p>25 A. (Shakes head.)</p>

<p style="text-align: right;">49</p> <p>1 Q. Do you remember anybody present as in any</p> <p>2 sergeant directing officers to go inside and clear</p> <p>3 the house?</p> <p>4 A. I was back taking the roommate out at that</p> <p>5 point, Antonini, when they moved up on the front of</p> <p>6 the house.</p> <p>7 Q. It says here that you grabbed a camera</p> <p>8 from Officer Stutesman and began taking some initial</p> <p>9 photographs of the scene. Are those the photographs</p> <p>10 that you reviewed in preparation for your</p> <p>11 deposition?</p> <p>12 A. No.</p> <p>13 Q. Why did you do that?</p> <p>14 A. It would be standard on any type of active</p> <p>15 scene to take photographs as soon as possible to</p> <p>16 document what the condition of the scene was.</p> <p>17 Q. Are you trained as a forensic</p> <p>18 photographer?</p> <p>19 A. I am not.</p> <p>20 Q. Why was it you that took those initial</p> <p>21 photographs?</p> <p>22 A. Because I had a camera and I was there.</p> <p>23 Q. Why didn't you wait for the forensic team</p> <p>24 to get there and do it?</p> <p>25 A. Because with medics and other people on</p>	<p style="text-align: right;">51</p> <p>1 A. Probably would have included that.</p> <p>2 Q. Did you take photographs of the bullet</p> <p>3 that went into the back wall?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Okay. Did you take photographs of the</p> <p>6 living room or the dining room?</p> <p>7 A. I don't recall.</p> <p>8 Q. Was there some way that you identified</p> <p>9 those photographs when you uploaded them like I took</p> <p>10 these photographs, when you took them, what camera</p> <p>11 you took them with?</p> <p>12 A. I do not know.</p> <p>13 Q. Okay. How long did you stay inside the</p> <p>14 Babb home?</p> <p>15 A. I was on scene for about two hours before</p> <p>16 being relieved.</p> <p>17 MS. BURROWS: Jeff, do you know what</p> <p>18 photographs he is talking about? Are those in the</p> <p>19 discovery that you gave us?</p> <p>20 MR. MATTHEWS: The photographs that he</p> <p>21 took at the scene?</p> <p>22 MS. BURROWS: Yeah.</p> <p>23 MR. MATTHEWS: I don't know.</p> <p>24 MS. BURROWS: Okay. If you wouldn't</p> <p>25 mind having someone check and see, if you have</p>
<p style="text-align: right;">50</p> <p>1 scene, it is best to document the condition before</p> <p>2 the scene is disturbed.</p> <p>3 Q. Okay. Where did you put your photographs?</p> <p>4 Where did you send them?</p> <p>5 A. I don't --</p> <p>6 Q. Who did you give them to?</p> <p>7 A. I don't recall who those photographs went</p> <p>8 to, if they were uploaded or if they were taken</p> <p>9 from -- the camera was taken from me or what</p> <p>10 happened with those photos.</p> <p>11 Q. Why did Officer Stutesman have a camera,</p> <p>12 if you know?</p> <p>13 A. Sometimes people put it in a pocket and</p> <p>14 will have a camera with them in their pocket.</p> <p>15 Q. Was it a little camera?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. What did you photograph?</p> <p>18 A. I don't recall what the photographs were.</p> <p>19 It would have been of the scene and the area</p> <p>20 directly around it.</p> <p>21 Q. The body?</p> <p>22 A. They would have included that.</p> <p>23 Q. The blood spatter on the wall?</p> <p>24 A. It would have probably included that.</p> <p>25 Q. The weapon out on the porch?</p>	<p style="text-align: right;">52</p> <p>1 already given it to us, what numbers those would be,</p> <p>2 because I know there are some crime scene photos,</p> <p>3 but I thought those were marked as from OSP.</p> <p>4 BY MS. BURROWS:</p> <p>5 Q. Did you -- did you interview any witness</p> <p>6 as part of this investigation?</p> <p>7 A. I did not.</p> <p>8 Q. Other than this interview with Detective</p> <p>9 Jones that we have been talking about, have you</p> <p>10 given a statement to anyone else about this</p> <p>11 situation?</p> <p>12 A. I have not.</p> <p>13 Q. Do you know the identity of an officer who</p> <p>14 accessed the Babb house right after the shooting but</p> <p>15 before the house was cleared?</p> <p>16 A. I wasn't up there initially, so I don't</p> <p>17 know who specifically went inside.</p> <p>18 Q. Had you heard anybody talk about going in</p> <p>19 after the shot?</p> <p>20 A. No. I don't recall who went inside.</p> <p>21 Q. Okay. Sitting here today looking</p> <p>22 backwards, do you know which officers were posted</p> <p>23 around the perimeter of the house? Do you have any</p> <p>24 information?</p> <p>25 A. I don't.</p>